

Remarks

The final Office Action mailed September 23, 2004, has been received and reviewed. Claims 1 through 45 are currently pending in the application. Claims 26-45 were previously withdrawn from consideration. Claims 1-11, 16-25 and 46-52 are rejoined. Claims 1-25 and 46-52 stand rejected. Claims 1-25 and 46-52 are canceled without prejudice or disclaimer. New claims 53-71 are added. All amendments are made without prejudice or disclaimer. Reconsideration is respectfully requested.

35 U.S.C. §112

Claims 1-25 and 46-52 stand rejected under 35 U.S.C. 112, first paragraph, for allegedly failing to comply with the written description requirement. Applicants respectfully traverse the rejection.

Claims 1-25 and 46-52 are canceled without prejudice or disclaimer herein. Thus, the rejection is moot as to these claims. New claims 53-71 include the limitation “chimaeric filamentous phage” as suggested by the examiner. Support for this claim language can be found throughout the as-filed specification, for example, page 2, lines 18-20 and the Examples. Reconsideration and withdrawal of the rejection is requested.

Claims 2-4, 6-7, 9-11, 16-24 and 46-49 stand rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection. However, claims 2-4, 6-7, 9-11, 16-24 and 46-49 are canceled without prejudice or disclaimer herein. Thus, the rejection is moot as to these claims.

The term “part, derivative or analogue thereof” in rejected claim 7 is included in new claims 53 and 71. Support for this claim language can be found throughout the as-filed specification, for example, page 27, line 24- page 28, line 12. Further, the metes and bounds of this claim limitation is understood when read in view of the further claim language that the “part, derivative or analogue” of the “filamentous phage coat protein” renders “a phage particle to which it is attached infectious.” Reconsideration and withdrawal of the rejection is requested.

35 U.S.C. § 102 Rejections

Claims 1-25 and 46-52 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Borrebaeck (U.S. Patent 6,027,930) (hereinafter "Borrebaeck"). Applicants respectfully traverse this rejection. Further, claims 1-25 and 46-52 have been canceled without prejudice or disclaimer. Thus, the rejection is moot.

Borrebaeck fails to disclose every element of the presently claimed invention. Specifically, Borreback fails to teach "providing a host cell with a first nucleic acid encoding a fusion protein, wherein the fusion protein comprises a proteinaceous molecule fused to a wild type filamentous phage coat protein or a part, derivative or analogue thereof rendering a phage particle to which it is attached infectious" and "providing the host cell with a second nucleic acid encoding a mutant form of the filamentous phage coat protein and further encoding all other proteins that are essential for the assembly of a filamentous phage particle in the host cell." Reconsideration and withdrawal of the rejection is requested.

New claims

New claims 53-71 are added herein. Support for the new claims can be found throughout the as-filed specification and no new matter is added. For example, support for claim 53 can be found at least in claims 16 and 25, page 12, line 26- page 13, line 17, page 14, line 17-29; page 17, line 3- page 18, line 23, page 19, line 24-page 21, line 14 and page 22, line 6 – page 23, line 5. Claim 54 is substantially similar to claims 20 and 21 and further support may be found in page 22, line 6- page 23, line 5. Support for new claim 55, 56 and 57 may be found on page 18, line 23- page 19, line 2 (and page 19, line 23 – page 21, line 14 for claim 56). Support for new claim 58 is found in claim 17 and page 23, line 6 – page 24, line 9. Support for new claim 59 is found in claim 18 and page 23, line 6 – page 24, line 9. Support for new claim 60 may be found in claim 19 and page 12, line 26- page 13, line 17. Support for claim 61 may be found in claim 22 and page 14, lines 17-29. Support for claims 62 and 63 may be found in page 14, lines 17-29. Support for claims 64 and 67 may be found in page 17, line 3- page 18, line 22 (and claim 25 for new claim 67). Support for claims 65, 66, 68, and 70 may be found in page 19, lines 3 – 29. Support for claim 69 may be found in page 24, line 10- page 25, line 15. Support for new claim 71 may be found in page 22, line 6- page 23, line 5.

Conclusion

Claims 53-71 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact applicants' undersigned attorney.

Respectfully submitted,



Krista Weber Powell
Registration No. 47,867
Attorney for Applicant(s)
TRASKBRITT, P.C.
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: January 24, 2005

KWP/dd:bv

Document in ProLaw